IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And
THE HON'BLE MR JUSTICE G.CHANDRAIAH

TAKEN UP WRIT PETITION NO : 19833 of 2003

Between:

The Secretary, State Human Rights Committee,
A.P., "Gruhakalpa", M.J.Road,
Hyderabad-500 001.

..... PETITIONER

AND

1 The Superintendent, Govt. General Hospital, Kurnool District.
2 The District Medical and Health officer, Kurnool Dist, Kurnool.
3 The District collector, Kurnool District, Kurnool
4 The Secretary to the Govt. of A.P., Medical, Health & Family Welfare Department, Secretariat, Hyderabad.

5 The Director of Medical & Health, Hyderabad.

(R-5 is impleaded as per Court Order dt.11.3.2004 in W.P.19833/2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction, or a writ, more particularly one in the nature of writ of Mandamus; calling for remarks and records from the respondents herein in and connected to the death of Shekar, aged 5 years R/o.Tarigoppula Village, Kurnool district on 4.2.2003 A.N. and Mahesh, aged 3 years, R/o.Konduru village, Kollapur Mandal, in the Children's ward of Kurnool Government General Hospital due to inhuman attitude, dereliction of duties, gross negligence on the part

of doctors and staff of Government General Hospital, Kurnool and to pass appropriate order in ordering a Judicial enquiry into the matter awarding compensation to the parents of the deceased children and directing the concerned authorities to take necessary steps to provide appropriate medical treatment to the poor people and to take action against those Government Doctors, who are negligent towards the poor patients in future.

Counsel for the Petitioner : Through Petition G.Vidyasagar (Amicus curiae)

Counsel for the Respondents No.1,2,4 & 5:G.P. for Medical and Health

Counsel for the Respondent No.3 : G.P. for Revenue.

The Court made the following :

ORDER : (per Hon'ble Sri Bilal Nazki, ACJ)

This petition was taken up on a letter written by Secretary, State Human Rights Committee, A.P. Basis for the letter was a petition by Sri Veeramalla Venkateswar Rao, Advocate, contending that because of the negligence and dereliction of duty on the part of the doctors and staff of the Government hospital, Kurnool, death of two boys had occurred. Counter affidavits are filed and on last occasion, with the agreement of learned Counsel appearing for the respondents and learned Amicus Curiae Mr.Vidyasagar, we appointed Dr.N.Ram Mohan Rao, Superintendent, Mahavir hospital and Research Centre as a Commission. He has submitted his report. No objections have been taken to this report. His conclusions are;

> *"1. Adequate staff/specialists are available in the hospital to attend to the patients in the Casuality/Wards after the normal working hours.*
>
> 2. *Both the patients were attended to promptly and proper treatment was given.*
>
> 3. *Certain defaults/lapses in the documentation or administration would not have materially altered the outcome/prognosis.*
>
> 4. *It cannot be categorically stated that death of the patients was due to negligence."*

But it is pointed out by Mr.Vidyasagar that in the case of one of the boys who died in the hospital namely Sekhar, the findings of the commission are;

" a) ……

b) ……

c) ……..

d. *Though the Tutor, Dr.Y.Narasimhulu, saw the patient initially, he did not endorse his remarks in the case sheet. Even after the subsequent visits, his remarks have been entered separately and not in sequence. However, there is no variation in the findings/diagnosis/line of treatment.*

e. *The time of death and the diagnosis as given in the body of the case sheet are at variance from that written at the end of the case sheet showing the particulars of death. The latter entry is incorrect. The other records i.e. Ward Nominal Register and the Casualty Death Nominal Register, show the correct details."*

And in the case of Mahesh, the findings include;

"a) ……..

b. *……..*

c. *The blood required for transfusion was not available for 2 days in the Hospital, and was given on the 3rd day.*

d. *Symptomatic treatment was given on the first three days and specific treatment was started on fourth day."*

The learned Counsel for the respondents submit that in the case of Sekhar, what has been pointed out are only lapses in documentation, whereas in the case of Mahesh, it is true that blood was not available as the boy needed blood from group-AB Positive, which is a rare group and this is the difficulty faced by the hospitals. But we find that in addition to not transfusing the blood for two days, only symptomatic treatment had been given to Mahesh for three days and specific treatment was started only on fourth day. That means, for three days no efforts were made in the case of Mahesh to even make a diagnosis. Similarly, in the case of Sekhar, under finding E,

the commission found that the entries made in the case sheet are incorrect. These are matters, which are to be taken into consideration by the State Government and issue necessary instructions to the hospitals concerned, to be careful while dealing with human beings. Though in the case of Sekhar we do not find any negligence except defaults in documentation, in the case of Mahesh, we find that the doctors have been negligent as they have given him symptomatic treatment for three days and not made any efforts to diagnose the disease and treat him accordingly. It is a matter of guess for us as well as for the Commission, whether the boy could have been saved or not had disease been diagnosed early, but the fact remains that he did not get proper treatment for three days. Therefore, in the case of Mahesh, we direct the State Government to pay a compensation of Rs.50,000/- (Rupees Fifty thousand) to the parents of Mahesh.

With these observations, the writ petition is disposed of.

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(BILAL NAZKI, ACJ)

17th June 2005.

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(G. CHANDRAIAH, J)

ajr

To

1 The Superintendent, Govt. General Hospital, Kurnool District.
2 The District Medical and Health officer, Kurnool Dist, Kurnool.
3 The District collector, Kurnool, Kurnool District.
4 The Secretary to the Govt. of A.P., Medical, Health & Family Welfare Department, Secretariat, Hyderabad.

5 The Director of Medical & Health, Hyderabad.

6 The Secretary, State Human Rights Committee, A.P. – Gruhakalpa,

M.J.Road, Hyderabad – 500 001.

7 Two C.Cs. each to the GP for Medical & Health and GP for

Revenue, High Court buildings, Hyderabad (O.U.T)

8 Two C.D. copies.

9 One C.C. to Sri G.Vidyasagar (Amicus Curiae), Advocate, High Court of

A.P., Hyderabad.